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DOCKET NO. 47898

**PETITION OF EAST TEXAS ELECTRIC
COOPERATIVE, INC. FOR
AUTHORITY TO TRANSFER 35
MEGAWATTS OF LOAD INTO THE
ELECTRIC RELIABILITY COUNCIL
OF TEXAS**

**PUBLIC UTILITY COMMISSION
OF TEXAS**

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ORDER

This Order addresses the application of East Texas Electric Cooperative, Inc. (ETEC) for approval to transfer two wholesale delivery points totaling approximately 35 megawatts (MW) of load into the Electric Reliability Council of Texas (ERCOT) region from the Southwest Power Pool (SPP) region. ETEC and Commission Staff filed an unopposed agreement that resolves the issues between them. ERCOT, SPP, Rayburn Country Electric Cooperative, Inc., Lone Star Transmission, LLC, and Oncor Electric Delivery Company LLC are the remaining parties in this proceeding and do not join in the agreement, but do not oppose it. The Commission authorizes ETEC to transfer 35 MW of load into the ERCOT region, as modified by the agreement, to the extent provided in this Order.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicant

1. ETEC is a generation and transmission cooperative organized under Chapter 161 of the Texas Utilities Code that owns and operates transmission lines and related facilities in Texas.
2. ETEC provides wholesale electric service to eight members that are electric cooperatives organized under Chapter 161 of the Texas Utilities Code: Northeast Texas Electric Cooperative, Inc., Cherokee County Electric Cooperative Association, Deep East Texas Electric Cooperative, Inc., Houston County Electric Cooperative, Inc., Jasper-Newton Electric Cooperative, Inc., Rusk County Electric Cooperative, Inc., Sam Houston Electric Cooperative, Inc., and Wood County Electric Cooperative, Inc.
3. ETEC is authorized to provide electric service under CCN number 30190.

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Background

4. ETEC operates in east Texas in an area that straddles three regional transmission organization and independent system operator markets, including ERCOT, SPP, and the Midcontinent Independent System Operator (MISO).
5. Currently, ETEC's member cooperatives serve approximately 1,000 MW of load in SPP, approximately 450 MW of load in MISO, and approximately 150 MW of load in ERCOT.
6. This proposed load transfer would increase ETEC's load in ERCOT by 35 MW to approximately 185 MW in total, and decrease ETEC's load in SPP by 35 MW to approximately 965 MW in total.

Application

7. On December 21, 2017, ETEC filed the application at issue in this proceeding, seeking approval to transfer approximately 35 MW of load, which is the estimated annual non-coincident peak demand at the time of transfer, from SPP to ERCOT.
8. To transfer this load, ETEC proposes to disconnect the Berea, Latexo, and Mustang Prairie substations from SPP and connect them into ERCOT by two interconnections into Oncor's Crockett-to-Lufkin 138-kilovolt (kV) transmission line. The Berea and Latexo substations will be connected with radial taps from the Oncor line. ETEC and Oncor will build the facilities to interconnect ETEC's load into ERCOT. Mustang Prairie will be served radially from Latexo, as it currently is.
9. No party objected to the sufficiency of the application.
10. In Order No. 2 issued on January 19, 2018, the administrative law judge (ALJ) found the application sufficient for further review.
11. From March 23, 2018 through June 13, 2018, ETEC and Commission Staff repeatedly requested, and were granted, extensions of the procedural deadlines so that the parties could discuss and resolve any potential disputes.
12. From June 13, 2018 through May 28, 2019, ETEC and Commission Staff repeatedly requested, and were granted, abatements of the procedural schedule, so the parties could finalize a settlement.

Notice

13. Notice of the application appeared in the January 12, 2018 issue of the *Texas Register*.
14. On February 1, 2018, ETEC provided, by mail, notice of the application to the Office of Public Utility Counsel, SPP, American Electric Power Company, ERCOT, and Oncor.
15. On February 8, 2018, notice of the application was published in the *Houston County Courier*, a newspaper of general circulation in Houston County.
16. On February 8, 2018, ETEC provided notice of the application to directly affected customer members through direct mail notice.
17. On February 12, 2018, ETEC provided direct notice of the application by first class mail to: (a) county governments and incorporated municipalities within five miles of the facilities proposed to be integrated into ERCOT; and (b) neighboring electric utilities within five miles of the facilities proposed to be integrated into ERCOT, including the owners of the interconnection points currently serving the load to be transferred to ERCOT.
18. On February 12, 2018, ETEC filed the affidavit of Adrienne M. Waddell, on behalf of ETEC, attesting that notice was mailed by first class mail to: (a) the county government of Houston County and municipalities within five miles of the affected service area to be transferred and neighboring utilities within five miles of the affected service areas to be transferred; (b) the publisher's affidavit of Elizabeth Gorman attesting that notice was published in the *Houston County Courier* on February 8, 2018; and (c) the affidavit of Kathi Calvert attesting that notice was mailed to directly affected customer members on February 8, 2019, through direct mail notice.

Intervenors

19. On February 12, 2018, SPP filed a motion to intervene.
20. On February 13, 2018, ERCOT filed a motion to intervene.
21. In Order No. 4 issued on February 21, 2018, the ALJ granted intervenor status to SPP and ERCOT.
22. On February 22, 2018, Oncor filed a motion to intervene.
23. On February 26, 2018, Lone Star filed a motion to intervene.

24. On February 26, 2018, Rayburn Country filed a motion to intervene.
25. In Order No. 5 issued on March 6, 2018, the ALJ granted intervenor status to Oncor, Lone Star, and Rayburn Country.

Comments on the Merits of the Petition

26. On March 5, 2018, SPP and ERCOT filed comments in the proceeding.

Evidentiary Record

27. On May 29, 2019, ETEC and Commission Staff filed a joint motion to admit evidence.
28. In Order No. 25 issued on July 19, 2019, the ALJ admitted the following evidence into the record: (a) ETEC's application filed on December 21, 2017; (b) ETEC's proof of notice filed on February 12, 2018; (c) comments of ERCOT filed on March 5, 2018; (d) comments of SPP filed on March 5, 2018; (e) ETEC's response to Commission Staff's first request for information filed on March 7, 2018; (f) ETEC's supplemental response to Commission Staff's first request for information filed on March 8, 2018; (g) ETEC's response to Commission Staff's second request for information filed on April 11, 2018; (h) stipulation and settlement agreement and attachments filed on May 29, 2019; and (i) Commission Staff testimonies of Alicia Maloy and Adrian Narvaez in support of the agreement filed on May 29, 2019.

Agreement

29. On May 29, 2019, ETEC and Commission Staff filed an unopposed agreement that resolves the issues between them. The agreement included a proposed order for the Commission's consideration. ERCOT, SPP, Rayburn Country, Lone Star, and Oncor did not join, but do not oppose, the agreement and proposed order.
30. On May 29, 2019, Commission Staff filed the testimonies of Alicia Maloy and Adrian Narvaez in support of the agreement.
31. ETEC's transfer of 35 MW of load and related facilities from SPP to ERCOT in accordance with the agreement is in the public interest, reasonably holds customers in the ERCOT and SPP regions harmless, and should be approved.

32. ETEC will determine whether the load transfer will occur and will control the timing of its load transfer. The load transfer, if it occurs at all, must take place between October 1, 2020 and December 31, 2020.
33. ETEC will file, in a monitoring project established by the Commission, a notification as soon as reasonably practicable, and in no event later than March 31, 2020, to inform the Commission and its staff whether the load transfer will be completed and, if so, the date upon which the load transfer is expected to be complete. ETEC and ERCOT will notify the Commission that the load transfer will become operational no later than 48 hours before the load transfer becomes operational. Upon completion of the load transfer, ETEC will file a notification in the monitoring project that the load transfer is complete.
34. ERCOT may postpone the date of the load transfer if ERCOT determines transferring the load will be a risk to the reliability or adequacy of the ERCOT system due to the conditions of the ERCOT system on the planned transfer date.
35. ETEC may petition the Commission for approval to complete the load transfer before October 1, 2020. Notice of such petition will be limited to the parties in this proceeding and any party who participates in the monitoring project.
36. Beginning on the load transfer date, ETEC will make a hold harmless payment of \$1.0 million each year for five years to ERCOT wholesale transmission customers through a wholesale-transmission-service credit rider. ETEC must file an application for a wholesale-transmission-service-credit rider, to be effective upon ETEC's load transfer to ERCOT. Under the agreement, this amount reasonably holds customers in the ERCOT region harmless from the expected net impacts of this load transfer.
37. As soon as the data is available, ETEC agrees to file with the Commission the transferring load's four-coincident-peak (4CP) demands in accordance with the ERCOT 4CP for the year before the transferring load is expected to interconnect into the ERCOT system, for the purpose of calculating the overall ERCOT 4CP and for the purpose of properly charging ETEC for wholesale transmission service.
38. Under the agreement, ETEC must not be required in this docket to make any hold harmless payments to SPP or any SPP utility.

39. The Commission will open a separate monitoring project to allow ETEC and any other party to provide updates or raise issues concerning the load transfer.
40. ETEC will take any action or provide any information reasonably requested by ERCOT or the Commission to effect the transition of the transferring load to ERCOT.
41. ETEC will ensure that no commingling of energy between the SPP and ERCOT systems occurs during the period leading up to the integration date, during the physical disconnection of the transferring load from SPP and interconnection of the transferring load to the ERCOT system, and all times thereafter.
42. ETEC may not take any action that would cause ERCOT or a market participant within the ERCOT region that is not a public utility under the Federal Power Act to become a public utility under the Federal Power Act or otherwise become subject to Federal Energy Regulatory Commission's plenary jurisdiction.
43. ETEC may not disconnect the transferring load from the ERCOT system unless and until ETEC complies with any then-existing rule of the Commission that may govern such disconnection, which may include obtaining approval or paying an exit fee before disconnecting from the ERCOT system.

Commission Findings

44. The transfer into ERCOT of ETEC's 35 MW of load and related facilities, under the terms of the agreement as approved by this Order, is reasonable and in the public interest.
45. The load transfer date range of between October 1, 2020 and December 31, 2020 is reasonable; provided, however, that all facilities necessary to integrate the transfer load are operational and all compliance and regulatory requirements are complete by the load transfer date, and further provided that ETEC may request and the Commission may grant an earlier load transfer date or ERCOT may determine transferring the load will be a risk to the reliability or adequacy of the ERCOT system due to the conditions of the ERCOT system on the planned transfer date. If ERCOT determines transferring the load on the planned transfer date will be a risk to the reliability of adequacy of the ERCOT system, it is appropriate for ERCOT to determine a new transfer date, subject to the Commission's

oversight, and provide notice of the new transfer date to ETEC, SPP, Oncor, and the Commission.

46. It is reasonable that ETEC be required to file in the monitoring project a notification as soon as reasonably practicable, and in no event later than March 31, 2020, to inform the Commission and its staff whether the load transfer will be completed and, if so, the date upon which the load transfer is expected to be complete. It is reasonable that ERCOT and ETEC be required to notify the Commission that the load transfer will become operational no later than 48 hours before the load transfer becomes operational. Upon completion of the load transfer, it is reasonable that ETEC be required to file in its monitoring project a notification that the load transfer is complete.
47. It is reasonable for ERCOT to have the discretion to postpone the date of the load transfer if ERCOT determines transferring the load into ERCOT will be a risk to the reliability or adequacy of the ERCOT system due to the condition of the system on the planned integration date.
48. It is appropriate for ERCOT to provide notice to ETEC, Oncor, SPP, and the Commission if a delay in the load transfer date is necessary due to reliability or resource adequacy needs of the ERCOT system and for ERCOT to request that a new load transfer date be determined by the Commission. It is reasonable for ERCOT to make such a request within 30 days after it determines that all reliability and adequacy issues have not been resolved.
49. ETEC's payment of \$1.0 million each year for five years to ERCOT wholesale transmission customers reasonably indemnifies customers in the ERCOT region for the expected net impacts of the ETEC load transfer.
50. It is reasonable and necessary for ETEC to calculate and provide to ERCOT and the Commission ETEC's 4CP data for the transferring load for the calendar year before its expected integration date as soon as the data is available.
51. It is reasonable that ETEC not be required in this docket to make any hold harmless payments to SPP or any SPP utility.
52. It is reasonable and necessary for ETEC to submit a transition plan to ERCOT at least 90 days before the integration date. ETEC also agrees to provide ERCOT with any necessary

transmission modeling data as required by ERCOT Protocols, including *other binding documents* as that term is used in the ERCOT Protocols, and it is appropriate and necessary that ETEC take actions and provide information required by ERCOT to ensure that the reliability of the ERCOT system is maintained and that the Commission's jurisdiction over ERCOT and its market participants is protected during the course of the load transfer.

53. It is reasonable and appropriate for the Commission to open a separate project to monitor the ETEC load transfer process, and to allow ETEC and any other party to provide updates or raise issues concerning the load transfer.
54. It is reasonable and necessary to require that ETEC take no action that would cause ERCOT or a market participant within the ERCOT region that is not a public utility under the Federal Power Act to become a public utility under the Act or otherwise become subject to the plenary jurisdiction of Federal Energy Regulatory Commission.
55. It is reasonable and necessary to require that ETEC ensure that no commingling of energy between the SPP region and the ERCOT region occurs before the load transfer date, during the physical disconnection of the transferring load from the SPP region and interconnection of the transferring load into the ERCOT region, and at all times thereafter.
56. It is reasonable and necessary that ETEC not disconnect the transferring load from the ERCOT system unless and until ETEC complies with any future rule or decision of the Commission that may govern the disconnection of load from the ERCOT system, which may include a requirement to obtain approval or pay an exit fee before departing the ERCOT region system.

Informal Disposition

57. More than 15 days have passed since the completion of notice provided in this proceeding.
58. No person filed a protest.
59. No person other than ERCOT, SPP, Rayburn Country, Lone Star, and Oncor filed a motion to intervene.
60. ETEC, Commission Staff, ERCOT, SPP, Rayburn Country, Lone Star, and Oncor are the only parties to this proceeding.

61. No party opposes issuance of this order.
62. No hearing was requested and no hearing is necessary.
63. The decision is not adverse to any party.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. ETEC is an electric cooperative as defined in Texas Utilities Code § 161.002 and an electric utility under PURA¹ §§ 35.001 and 37.001.
2. The Commission has jurisdiction over this application under PURA §§ 14.001, 14.051, 35.001 through 35.009, 37.001 through 37.157, 39.151, and 39.203.
3. As a designated independent organization under PURA § 39.151(a), ERCOT has the authority to take those actions necessary to ensure the reliability and adequacy of the ERCOT system in the course of effectuating the ETEC load transfer.
4. ETEC provided sufficient notice of this proceeding.
5. This docket was processed in accordance with the requirements of PURA, the Administrative Procedure Act,² and the Commission's rules.
6. The requirements for informal disposition under 16 TAC § 22.35 have been met in this case.
7. Any decision made by ERCOT under this Order is subject to appeal to the Commission as provided in 16 TAC § 22.251.

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders.

1. The Commission authorizes ETEC to transfer the 35 MW load and related facilities into the ERCOT region in accordance with the agreement to the extent provided in this Order.

¹ Public Utility Regulatory Act, Tex. Util. Code §§ 11.001–66.016.

² Tex. Gov't Code ch. 2001.

2. All filings, notices, reports, or other information required by this Order to be given to the Commission must be filed in *Project to Monitor East Texas Electric Cooperative, Inc.'s 35 MW Load Transfer into ERCOT*, Project No. 49777.
3. The date range for ETEC's load transfer must be between October 1, 2020 and December 31, 2020; provided, however, ETEC may request and the Commission may grant an earlier load transfer date as described in finding of fact 35 or ERCOT may postpone the load transfer as set out in ordering paragraph 5 and referenced in findings of fact 47 and 48.
4. ETEC must file in Project No. 49777 a notification as soon as reasonably practicable, and in no event later than March 31, 2020, to inform the Commission and its staff whether the load transfer will be completed and, if so, the date upon which the load transfer is expected to be complete. Upon completion of the load transfer, ETEC must file in its monitoring project a notification that the load transfer is complete.
5. ERCOT may postpone the load transfer date if ERCOT determines transferring the load into ERCOT will be a risk to the reliability or adequacy of the ERCOT system due to the conditions of the system on the planned integration date. In the event that ERCOT determines it is necessary to delay the load transfer date due to the reliability or adequacy needs of the ERCOT system, ERCOT must provide notice to ETEC, Oncor, SPP, and the Commission in Project No. 49777, and must request in that notice that the Commission determine a new load transfer date.
6. ETEC must pay a total of \$1.0 million each year for five years to ERCOT wholesale transmission customers as agreed to by the signatories and described in finding of fact 36. ETEC must file an application for a wholesale-transmission-service credit rider, to be effective upon ETEC's load transfer to ERCOT. ETEC must apply annually, or more frequently as needed, to update its wholesale transmission credit rate to incorporate any changes to the ERCOT 4CP billing units.
7. In the event of a future transfer of ETEC's transferring load out of the ERCOT system, ETEC may not disconnect the transferring load from the ERCOT system unless and until ETEC complies with any then-existing rule of the Commission that may govern such

disconnection, which may include obtaining approval or paying an exit fee before disconnecting from the ERCOT system.

8. The load transfer into the ERCOT system must not occur unless and until ETEC has provided all information and taken all actions ERCOT reasonably deems necessary to facilitate the load transfer.
9. ETEC and ERCOT must notify the Commission that the load transfer will become operational no later than 48 hours before the load transfer becomes operational.
10. ETEC must calculate and file in Project No. 49777 ETEC's 4CP data for the transferring load for the calendar year before its expected load transfer date as soon as the data is available.
11. ETEC must take no action that would cause ERCOT or a market participant within the ERCOT region that is not a public utility under the Federal Power Act to become a public utility under the Act or otherwise become subject to the plenary jurisdiction of the Federal Energy Regulatory Commission. ETEC must ensure that no commingling of energy between the SPP region and the ERCOT region occurs before the load transfer date, during the physical disconnection of the transferring load from the SPP region and interconnection of the transferring load into the ERCOT region, and at all times thereafter.
12. Project No. 49777 has been opened to monitor ETEC's load transfer to ERCOT.
13. Entry of this Order does not indicate the Commission's endorsement or approval of any principle or methodology that may underlie the agreement and must not be regarded as a binding holding or precedent as to the appropriateness of any principle or methodology underlying the agreement.

14. The Commission denies all other motions and any other request for general or specific relief, if not expressly granted.

Signed at Austin, Texas the 3rd day of September 2019.

PUBLIC UTILITY COMMISSION OF TEXAS


DEANN T. WALKER, CHAIRMAN


ARTHUR C. D'ANDREA, COMMISSIONER


SHELLY BOTKIN, COMMISSIONER